



Exclusion Policy

Adopted/Reviewed: September 2020

Date of Next Review: September 2021*

Signed:
(Headteacher)

Date:

Signed:
(Chair of Governors)

Date:

**Addendum to Policy to be reviewed March 2021 or sooner if government policy dictates*

Our school aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusion process is understood by governors, staff, parents/carers and students
- Students in school are safe and happy

This policy is based on statutory guidance from the Department for Education: Exclusion from maintained schools, academies and pupil referral units (PRUs) in England.

2.1 It is based on the following legislation, which outlines schools' powers to exclude students:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Sections 64-68 of the School Standards Framework Act 1998

2.2 The Sherburn High School Exclusions Policy takes note of the guidance provided in the DFE Guide "Behaviour and Discipline in Schools" particularly the following ten key aspects of school practice:

1. A consistent approach to behaviour management
2. Strong school leadership
3. Classroom management
4. Rewards and sanctions
5. Behaviour strategies and the teaching of good behaviour
6. Staff development and support
7. Student support systems
8. Liaison with parents/carers and other agencies
9. Managing student transition
10. Organisation and facilities

The decision to exclude

3.1 Any behaviour that is deemed, in the judgement of the Headteacher, to undermine the authority of a member of staff or adversely affect the health and safety of a member of the community, may result in Fixed Term Exclusion. A Permanent Exclusion will be taken as a last resort.

3.2 A Fixed Term Exclusion would normally be for 1 to 5 days but in very exceptional circumstances could be up to 45 days in any one school year.

Fixed Term Exclusion

4.1 Before deciding whether to exclude a student, either permanently or for a fixed period, the Headteacher will:

- Consider all the relevant facts and evidence
- Allow the student to give their version of events
- Consider if the student has special educational needs (SEND) or is a Child Looked After, ensuring a reasonable adjustment has been considered.

Permanent Exclusion

5.1 Statutory guidance (Exclusion from maintained schools, academies and pupil referral units in England September 2017) identifies the following factors that a Headteacher should consider before taking the decision to exclude:

5.2 A decision to exclude a student permanently should only be taken:

- In response to a serious breach or persistent breaches of the School's Behaviour Policy; and

- Where allowing the student to remain in school would seriously harm the education or welfare of the student or others in school.

5.3 The decision on whether to exclude is for the Headteacher to take. However where practical, the Headteacher should give the student an opportunity to present their case before taking the decision to exclude.

5.4 Whilst an exclusion may still be an appropriate sanction, the Headteacher should take account any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that the student has suffered a bereavement, has mental health issues or has been subject to bullying.

5.5 Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a student may have. The Headteacher should also consider the use of a multi-agency assessment for a student who demonstrates persistent disruptive behaviour. Such assessments may pick up unidentified SEND but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

5.6 The Headteacher may decide that Permanent Exclusion is necessary for a student. Reasons leading to a Permanent Exclusion, may include, but are not limited to, the following:

- All other steps to encourage the student to obey the school rules have failed
- Allowing the student to remain in school would be seriously detrimental to the education or welfare of others in the school
- Persistent and defiant behaviour. This would encompass persistent bullying including homophobic or racist bullying
- Serious actual or threatened violence against a student or member of staff
- Sexual misconduct
- Supply of an illegal drug, or the severe misuse of an illegal drug (or a legal high). Please see the Drug Education Policy for further guidance
- Carrying an offensive weapon
- Prohibited items such as e-cigarettes, tobacco, lighters etc.
- Deliberate activation of the Fire Alarm
- Wilful and repeated transgression of protective measures in place to protect public health

5.7 Disciplinary action will also be taken against students who are found to have made malicious accusations against school staff.

The Headteacher

Informing parents/carers/carers

6.1.1 The Headteacher will immediately provide the following information in writing, to the parents/carers of an excluded student:

- The reason for the exclusion
- The length of a Fixed Term Exclusion or, for a Permanent Exclusion, the fact that it is permanent,
- Information about parents/ carers right to make representations about the exclusion to the governing board and how the student may be involved in this,
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a student, and that parents/carers have the right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.

6.1.2 In addition to a letter, the Headteacher or a delegated member of staff, will also notify parents/carers by telephone, on the day their child is excluded.

6.1.3 Parents/carers are legally required to ensure their child is not present in a public place during school hours without a good reason. Parents/carers may be given a fixed penalty notice or prosecuted if they fail to do this.

6.1.4 Where a Fixed Term Exclusion lasts longer than five days, students will attend alternative provision from the sixth day of their exclusion. If an alternative provision is being arranged, the following information will be included when notifying parents/carers of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish time of any such provision
- The address at which the provision will take place
- Any information required by the student to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable on the day prior to the start of an exclusion, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents'/carers' consent.

6.4.5 Reintegration interviews:

On all occasions when a student is excluded from school a reintegration interview will be requested. This will initially be the day of return after exclusion. A record will be made on the student file should a parent/carer choose not to attend without good reason. The Antisocial Behaviour Act 2003 has been amended allowing a court to consider the unreasonable failure of a parent/carer to attend a reintegration interview when deciding to make a parenting order.

The following measures may be implemented when a student returns:

- Agreeing a behaviour contract
- Student being placed on report
- Internal Isolation
- Reduced access to areas around school such as recreational areas at break and lunchtimes
- Intervention and additional resources to support SEMH etc.

Informing the Governing Body, MAT Trustees and Local Authority

6.2.1 The Headteacher will immediately notify the LA of all exclusions.

6.2.2 The Headteacher will immediately notify the governing body, MAT Trustees and the LA of:

- A Permanent Exclusion
- Exclusions which would result in the student being excluded for more than 5 school days
- Exclusions which would result in a student missing a public examination

6.2.3 For a Permanent Exclusion, if the student lives outside the LA in which the school is located, the Headteacher will also immediately inform the students "home authority" of the exclusion and the reason(s) for it without delay.

6.2.4 For all other exclusions, the Headteacher will notify the governing board and Trustees at least once a term.

The Governing Body

Responsibilities regarding exclusions are delegated to the Behaviour and Discipline Committee consisting of 3 governors.

7.1.1 Considering the reinstatement of a student

The governing board will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a Fixed Term Exclusion which would bring the student's total number of school days of exclusion to more than 15 in term
- It would result in a student missing a public examination

7.1.2 If requested to do so by parents/carers, the governing board will consider reinstatement of an excluded student within 50 school days of receiving notice of exclusion if the student would be excluded from school for more than 5 school days, but less than 15, in a single term.

7.1.3 Where an exclusion would result in a student missing a public examination, the governing body will consider the reinstatement of the student before the date of the examination. If it is not practicable, the chair of the governing board (or vice chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether to reinstate the student.

7.1.4 The governing board can either:

- Decline to reinstate the student or
- Direct the reinstatement of the student immediately, or on a particular date.

7.1.5 In reaching a decision, the governing body will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher followed their legal duties. They will decide whether a fact is true "on the balance of probabilities", which differs from the criminal standard of "beyond reasonable doubt", as well as any evidence that was presented in relation to the decision to exclude.

7.1.6 Minutes will be taken of the meeting, and a record of evidence kept. The outcome will also be recorded on the student's educational record.

7.1.7 The governing body will notify, in writing, the Headteacher, parents/carers and the LA of its decision, along with the reasons for its decision, without delay.

7.1.8 Where an exclusion is permanent, the governing body decision will also include the following

- The fact that it is permanent
- Notice of parents/carers right to ask for the decision to be reviewed by an Independent Review Panel and:
- The date by which an application of an independent review must be made
- The name and address to whom an application for a review should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the students SEND are relevant to the exclusion
- That, regardless of whether the excluded student has recognised SEND, parents/carers have a right to require the LA to appoint a SEND expert to attend the review
- Details of the role of the SEND expert and that there would be no cost to the parents/carers for this appointment
- That parents/carers must make clear if they wish for a SEND expert to be appointed in any application for a review

- That parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers may also bring a friend to the review.

That if parents/carers believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.

The Local Authority

8.1 For Permanent Exclusions, the LA is responsible for arranging a suitable full- time education to begin no later than the sixth day of the exclusion.

8.2 Provision does not have to be arranged for students in the final year of compulsory education who do not have any further examinations to sit.

An Independent Review

9.1 If parents/carers apply for an independent review, the LA will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded student.

9.2 Applications for an independent review must be made within 15 school days of the notice being given to the parents/carers by the governing board of its decision not to reinstate a student.

9.3 A panel will be constituted with representatives from the categories below:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Headteachers during this time
- Headteachers or individuals who have been a Headteacher within the last 5 years

A person may not serve as a member of the review panel if they:

- Are a member of the LA, or governing body of the excluding school
- Are a Headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA, or the governing board, of the excluding school (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with the LA, school, governing board, parents/carers or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality,
- Have not had the required training in the last 2 years

A clerk will be appointed to the panel

9.4 The Independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided on a majority vote. In the case of a tied decision, the chair has the casting vote.

School's registers

10.1 A student's name will be removed from the school's admission register if:

- 15 school days have passed since the parents/carers were notified of the exclusions panel's decision to not reinstate the student and no application has been made for an Independent Review Panel, or
- The parents/carers have stated in writing they will not be applying for an Independent Review Panel.

10.2 Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a student's name from the register.

10.3 Where alternative provision has been made for an excluded student and they attend it, code B (education offsite) or code D (dual registration) will be used on the attendance register.

Complaints regarding the use of this policy

11.1 Complaints regarding any issue relating to this policy should be made in accordance with our Complaints Procedure. Copies are available on the school website.

Links with other policies

12.1 This exclusion policy is linked to our:

Behaviour Policy

Addendum to Sherburn High School Exclusions Policy

10.1 This statutory guidance describes the temporary changes we have made to the school exclusion process due to coronavirus (COVID-19).

10.2 The new regulations change some of the procedures that must be followed in relation to an exclusion during the coronavirus (COVID-19) outbreak. They apply to all maintained schools, academies (including alternative provision academies but excluding 16 to 19 academies) and pupil referral units (PRUs).

10.3 The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in Sherburn High School's Exclusion Policy which follows the 2017 statutory guidance "Exclusion from maintained schools, academies and pupil referral units in England" are unchanged except as noted below.

10.4 The term 'governing board' used throughout this guidance includes the governing body of a maintained school, the management committee of a MAT, PRU or academy trust

Important dates

10.5.1 The arrangements come into force on 1 June 2020 and will apply to all exclusions occurring from then until 24 March 2021 (inclusive of those dates). The arrangements also apply to:

Remote access meetings

10.6.1 When governing boards or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via telephone or video-conference software ('remote access') as long as certain conditions are met.

10.6.2 The conditions are that it is not reasonably practicable for the meeting to take place in person, within the usual timescales, because of coronavirus (COVID-19), and that the governing board (or arranging authority, if the meeting is an IRP) is satisfied that:

- all the participants agree to the use of remote access
- all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
- all the participants will be able to put across their point of view or fulfil their function
- the meeting can be held fairly and transparently via remote access

10.6.3 It is the responsibility of the school governing board (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

10.6.4 The governing board or arranging authority should assess the facts of the case, the circumstances in which a meeting in person could be expected to take place, the needs of the intended participants (as far as this is possible), and the latest public health guidance when determining whether it would be reasonably practicable to meet in person.

Arranging a remote access meeting

10.7.1 The governing board or arranging authority should explain the technology they propose to use to participants and should make sure that the participants (particularly pupils and their families) know that they do not have to agree to a meeting to be held via remote access if they do

not want to. They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

10.7.2 Though all participants must have agreed to the use of remote access, where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should make reasonable efforts to accommodate that preference unless there is a clear reason not to.

10.7.3 The normal requirements for who must be invited to a governing board or IRP meeting remain in place. However, those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions stated above.

10.7.4 Governing boards, arranging authorities and panel members must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

10.7.5 If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly. If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the governing board or IRP should adjourn the meeting.

10.7.6 The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the local authority/academy trust must appoint one and cover the cost as normal. Parents may bring a friend or representative, as normal.

10.7.7 Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing. As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

Timescales for meetings of governing boards

10.8.1 If it has not been reasonably practicable for governing boards to meet in person within the original time limit for a reason related to coronavirus (COVID-19) or remotely for a reason relating to the other conditions for a remote access meeting, the time limit for the meeting will be extended. The time limit for a governing board meeting will not be extended if it has already passed before 1 June. The government appreciates that it may not have been possible to meet the normal time limits over recent months, due to the disruption caused by the coronavirus (COVID-19) outbreak and the health risks of holding meetings. Governing boards should arrange for overdue meetings to take place via remote access, if the conditions for such a meeting are met, or in person as soon as it is safe and practicable to do so.

10.8.2 If a time limit for a meeting has been extended, the governing board should reassess at regular intervals whether it is reasonably practicable to meet in person and, if it is, should arrange to do so without delay, in light of the need to minimise uncertainty for pupils and their families as far as possible.

Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term

10.9.1 If a pupil is permanently excluded or receives a fixed period exclusion which results in them having been excluded for 16 or more school days in a term, then the governing board should try to meet to discuss reinstatement within 15 school days. If it has not been reasonably practicable for the governing board to meet face to face within 15 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term

10.10.1 If a pupil receives a fixed period exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the governing board should meet to discuss reinstatement within 50 school days. If it has not been reasonably practicable for the governing board to meet face to face within 50 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 60 days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

Timescales for application for independent reviews of exclusions

10.11.1 Where a governing board declines to reinstate a pupil, who has been permanently excluded, parents (or the excluded pupil, if they are 18 years old or above) can apply for a review of the governing board's decision.

10.11.2 For exclusions covered under these arrangements, the deadline for applications has increased to 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the pupil if they are 18 or above. Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

Timescales for meetings of independent review panels to consider permanent exclusions

10.12 If it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the other conditions for a remote access meeting, the timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19). The time limit for an IRP meeting will not be extended if it has already passed before 1 June. The government appreciates that it may not have been possible to meet the normal time limits over recent months, due to the disruption caused by the coronavirus (COVID-19) outbreak and the health risks of holding meetings. Arranging authorities should arrange for overdue meetings to take place via remote access, if the conditions for such a meeting are met, or in person as soon as it is safe and practicable to do so